



CITY OF DALLAS

March 25, 2010

Ms. Nancy Sutley
Chair
Council on Environmental Quality
730 Jackson Place, NW
Washington, DC 20503

Dear Madam Chair:

City of Dallas staff has reviewed the Proposed Principles and Guidelines (P&G), as released by the Council on Environmental Quality, and we appreciate the opportunity to comment on this document. We have a number of concerns reflective of the City's interest based on its experience with the Army Corps of Engineers, the Fish and Wildlife Service and the Bureau of Reclamation. Chief among these concerns is that the P&G does not give any recognition to the participation of a non-federal sponsor in the planning process even though the sponsor may be paying 50 percent of the costs of the planning activities. The perspective and constraints of non-federal sponsors should be an integral part of the entire planning process. Additionally, the general lack of definitions and introduction of reviews and repetitive processes are problematic.

In addition, the P&G appears to turn what is already a lengthy and unwieldy process into an even lengthier and more unwieldy one while operating with the assumption that federal agencies are the only actors engaged in water resources planning. The P&G does not recognize legally adopted and enacted state, regional or local plans as critical to the federal planning process. A "bottoms-up" Water Planning process similar to Texas' Regional Water Planning process has been adopted by many other states. This planning process begins on the local level, it is formulated and adopted by a diverse Regional Planning group representing interests including municipal, business, industrial, agricultural, environmental, and public. The adopted Regional Plans are reconciled into a single State Water Plan, leading to State Legislation for plan implementation. The P&G would appear to place the plans developed by any organized group on the same footing as those adopted by local, regional or state governments through a rigorous planning process. It fails to recognize sound decisions that have already been made in developed communities across the Nation. If the local, regional and State planning is not included, respected or considered in the P&G it will result in the duplication of efforts, wasted local, regional, state and federal dollars, and any single action of the Army Corps of Engineers, the Fish and Wildlife Service or the Bureau of Reclamation can and will most likely derail years of cooperative planning, which will have significant economic repercussions. If non-federal sponsors are paying up to half the cost of the planning activity (and substantial portions of any project which is ultimately implemented) they need to be involved thoroughly in each step of the process, especially in defining the scope of the studies. Non-federal sponsors should be considered stakeholders during the process not just commenters at the end of the process.

The P & G would turn every project study into a watershed study and we do not believe that is a valuable or necessary approach. This broadening of planning studies is one of the ways that costs are driven up and time and staff involvement are greatly increased. Some project studies should be allowable, especially where state, regional and local watershed management plans are already clearly defined.

In the case of flood plain management we have some additional concerns. First, the P&G puts too much emphasis on "no action" and "non structural" alternatives to provide a realistic framework for action for developing flood control plans in major urbanized areas. "Non structural" approaches in these settings are seldom an option within realistic fiscal constraints. "No action" alternatives would only keep people, buildings and infrastructure in harms way. In the case of historic central cities developed along flood plains "non structural" and "no action" alternatives promote sprawl by fostering development in outlying areas away from historic centers. They support disinvestment in established communities and already constructed infrastructure and potentially foster relocation to less developed areas. This proposal is entirely counter to the Administration's efforts to support sustainable, livable communities by supporting housing and commercial development in central areas with transportation choices—i.e. an area such as central Dallas which is located in and adjacent to a floodplain. The P&G also calls for "avoiding the unwise use of floodplains" and does not define the concept. The concept of "wise" or "unwise" use is alarmingly vague and subject to interpretation and bias. The costs (financially and socially) of "moving damageable and critical infrastructure out of flood prone areas" (such as central Dallas) are un-calculable.

While the P&G document is intended to provide a high level, policy statement and framework for development of the agency implementation guidance, the vagueness of the definitions and applications of these principles is left to interpretation at this point. For example, the proposal to "fully" mitigate unavoidable environmental impacts is unclear. The broad scope of the document does not allow for determination of the final impacts that could be a result of this new process. Many aspects of the planning processes which are called for are untried. A substantial investment in training of federal, state and local planners would be necessitated by the procedures which are outlined in the P & G.

The document does offer several opportunities for maximizing the benefits of water resources projects and we are encouraged to see forward thinking on items such as the way benefits will be determined for budgeting purposes by not setting an arbitrary number and providing opportunity to truly account for the social and environmental benefits. The emphasis on environmental and economic sustainability could imply that these elements would be weighed equally during formulation but is not specifically stated. We are appreciative that environmental justice considerations can now be weighed, but concerned that "Ecosystem Services" do not include open space and recreation needs of densely populated urbanized areas. Additionally, the movement towards transparent planning, sharing of data and collaboration with partners and non-federal sponsors is refreshing and echoes the concerns expressed by non-federal sponsor partners in on-going discussions the City has had with other cities and districts. However, it does not appear to take into consideration the important economic benefits that could be gained as a result of implementing specific flood control projects.

Finally we are also very concerned about the "Applicability" provision. Applying new planning standards to projects completed after only 180 days of implementation is too ambitious. It effectively forces the reconsideration and delay of projects which may have been in the planning stage for a number of years. Many of the studies across the Nation take more than 5 years to

complete due to funding constraints that are not accounted for through P&G. A more reasonable application standard would be to allow a minimum of 12 months or reserve the right for non-federal sponsors to decide to continue moving forward with the 1983 P&G standards if substantial time and resources have been spent. In the case of Dallas, the Upper Trinity Feasibility Study first began in 1996 and has yet to be completed. The current schedule accounts for necessary updates to economic benefits while utilizing sound engineering planning that accounted for watershed development through 2040. It would be a substantial effort resulting in further delays to critical flood protection if it became necessary to re-create and develop new models when the current models are more than adequate.

We appreciate the opportunity to comment and would like to be fully engaged in any on-going opportunities for input and involvement as you move forward.

Sincerely,

A handwritten signature in black ink, appearing to read 'MSuhm', written in a cursive style.

Mary K. Suhm
City Manager

cc: Senator Kay Bailey Hutchison
Senator John Cornyn
Congresswoman Eddie Bernice Johnson
Congressman Chet Edwards
Congressman Kenny Marchant
Congressman Pete Sessions
Ms. Jo-Ellen Darcy, ASA, USACE
Lt. General Van Antwerp